IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 29TH JUNE 2007 / 8TH ASHADHA 1929

WP(C).No. 13235 of 2007(A)

OS.315/2002 of MUNSIFF COURT, HOSDRUG
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PETITIONER:

SREE KAMMADATH BHAGAVATHY KSHETHRAM
P.O MANDAPAM,BHEEMANADY VILLAGE,HOSDURG TALUK,
REPRESETNED BY EXECUTIVE OFFICER.

BY ADV. SRI.T.K.VIPINDAS

RESPONDENTS:
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1. **KADAN KAVIL MATHAI MATHEW,AGED 62,**
   S/O.MATHAI,RESIDING AT KAMMADAN ESTATE,
   BHEEMANADY VILLAGE,HOSDURG TALUK,KASARGOD DISTRICT

2. **KAMMADATH SREE BHAGAVATHY KSHETHRAM,**
   PUNARUDHARANA COMMITTEE HAVING ITS OFFICE AT
   MANDAPAM,BHEEMANDY VILLAGE,HOSDURG TALUK.KASARGOD
   DISTRICT,REPRESENTED BY ITS CHAIRMAN.

3. **EDAYILOM KARUNAKARAN NAMBIAR,**
   AGED 68 YEARS,RESIDING AT BALAL,BALAL VILLAGE &
   P.O,HOSDURG TALUK,KASARGOD DISTRIC.

4. **K.N.RAMARAJAN NAIR,AGED 45 YEARS,**
   RESIDING AT GOWRI SADANAM,KAMMADAM,BHEEMANADY
   VILLAGE,HOSDURG TALUK,KASARGOD DISTRICT.

5. **P.K.KUNHAMBU NAMBIAR,S/O.KUNHAMBU**
   NAMBIAR,RESIDING AT KAMMADAM,BHEEMANADY VILLAGE,
   HOSDURG TALUK,KASARGOD DISTRICT.

BY ADV. SRI.K.GOPALAKRISHNA KURUP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

EXT. P1 **TRUE COPY OF THE APPLICATION IN I.A.1221/07 IN I.A.1152/07 IN O.S.315/02.**

EXT.P2 **TRUE COPY OF THE ORDER OF THE COURT OF MUNSIFF HOSDRUG DTD.26.3.07 IN I.A.1221/07 IN I.A.1152/07 IN O.S.315/02.**

EXT.P3 **TRUE COPY OF THE ORDER DISMISSING THE IMPLEADING APPLICATIONS AS I.A.1152/07 IN O.S.315/02.**

[True copy]

P.A. to Judge.

M.N. KRISHNAN, J.

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W.P.C. NO. 13235 OF 2007

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Dated this the 29th day of June, 2007.

J U D G M E N T

This writ petition is filed seeking to quash Exts.P2 and P3. I am informed that by virtue of an order in I.A.1152/07, the writ petitioner was permitted to be impleaded as a party in the suit O.S.315/02. It was allowed on conditions, especially on payment of costs. But the writ petitioner was not able to make the payment in time and so well in advance he moved an application for extending the time for deposit on payment of costs. The order was passed on 22/3/07 and the application was presented on 24/3/07 within the stipulated time. The Court did not allow that request and subsequently I.A.1152/07 was dismissed for non-compliance of the order.

2. The writ petitioner is an executive officer representing a Department and one cannot expect him to make the payment out of his pocket and he may require the permission of the higher authorities to effect the payment. So his request for extension of time was only reasonable and the Court should have found it in his favour. The Court, after applying mind had allowed him to be

impleaded as a party. I feel at this distance of time his right to get impleaded cannot be defeated for non-payment of costs within the stipulated time. Therefore, the writ petition is allowed and I.A.1152/07 also stands allowed and the writ petitioner is directed to deposit an amount of Rs.250/- within a period of 15 days from today. On such deposit the plaintiff will be directed to amend the plaint and the 6th defendant be permitted to file written statement within the period of one week from the expiry of 15 days posted for deposit of the amount.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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